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Attorneys for [PROPOSED] Defendant-Intervenor
YUHA AVIATAM OF SAN MANUEL NATION,
a federally recognized Indian tribe, also federally recognized as
SAN MANUEL BAND OF MISSION INDIANS

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION - RIVERSIDE**

SAVE OUR FOREST ASSOCIATION,

Plaintiff,

v.

UNITED STATES FOREST SERVICE,

RANDY MOORE, in his official
capacity as Chief of the U.S. Forest
Service,

Case No.: 5:24-cv-01336-JGB-DTB

**DECLARATION OF ERIC
USTATION IN SUPPORT OF
YUHA AVIATAM OF SAN
MANUEL NATION'S MOTION TO
INTERVENE FOR LIMITED
PURPOSE OF MOTION TO
DISMISS**

1 CHRISTOPHER FRENCH, in his
2 official capacity as Deputy Chief for the
3 National Forest System of the
4 U.S. Forest Service,

5 JENNIFER EBERLEIN, in her official
6 capacity as Regional Forester for the
7 Pacific Southwest Region of the
8 U.S. Forest Service,

9 DANELLE HARRISON, in her official
10 capacity as Forest Supervisor of the San
11 Bernardino National Forest of the
12 U.S. Forest Service,

13 MICHAEL NOBLES, in his official
14 capacity as Front Country District
15 Ranger of the U.S. Forest Service,

16 Defendants.

17 YUHA AVIATAM OF SAN MANUEL
18 NATION, a federally recognized Indian
19 tribe,

20 [PROPOSED] Defendant-Intervenor.

21 I, Eric Ustation, declare as follows:

22 1. I am the Director of Intergovernmental Affairs - Local for the
23 Yuhaaviatam of San Manuel Nation, a federally recognized Indian tribe, also
24 federally recognized as the San Manuel Band of Mission Indians (the "Nation"),
25 and on whose behalf I submit this declaration. The facts set forth herein are
26 based on my personal knowledge, and if called as a witness, I could and would
27 testify competently thereto.

28 2. I have served as the Nation's Director of Intergovernmental Affairs -
Local since November 2020. In this capacity, I am responsible for protecting the
Nation's local interests on many issues, and to that end, I routinely engage with
other governmental agencies and officials on behalf of the Nation, whether on a

1 local, state, or tribal level. I also sometimes engage with private citizens in this
2 capacity.

3 3. Under the direction of the Nation's leadership, I am also charged with
4 advocating for the Nation in the many contexts in which its interests are affected.
5 This engagement can involve formal and informal meetings with other
6 government or nongovernment officials, including with local environmental
7 organizations.

8 4. I have long been aware that the Nation relies upon water delivered to
9 its Arrowhead Springs property ("Arrowhead Springs") through infrastructure
10 owned by a company called BlueTriton Brands, Inc ("BlueTriton"). It is my
11 understanding that BlueTriton uses water diversions from Strawberry Canyon in
12 the San Bernadino National Forest ("SBNF") for its own bottling purposes, but
13 also to deliver water through infrastructure to Arrowhead Springs. These are
14 water diversions upon which I understand the Nation and its predecessors-in-
15 interest at Arrowhead Springs have relied for nearly a century.

16 5. I and other Tribal representatives have met the United States Forest
17 Service ("USFS") on a number of issues, primarily concerning the Nation's
18 reliance upon water from the SBNF for Arrowhead Springs. The Nation's water
19 is delivered by infrastructure BlueTriton operates pursuant to a Special Use
20 Permit ("SUP"). When the USFS denied the renewal of BlueTriton's SUP on
21 July 26, 2024, I and other representatives of the Nation met with USFS officials
22 to underscore the Nation's need for the water to continue to be delivered by
23 BlueTriton through its infrastructure to Arrowhead Springs. I participated in
24 these meetings with other Tribal staff, including Dan Little, the Nation's Chief
25 Intergovernmental Affairs Officer.

26 6. When we met with USFS officials after the permit's denial, they told
27 us that one of the challenges to finding a mutually beneficial outcome, and to
28 helping us find a solution that would guarantee continued water delivery by

1 BlueTriton from Strawberry Canyon, was a pending lawsuit filed against USFS
2 officials by Save Our Forest Association, Inc., also known as “SOFA.”

3 7. I am aware that on June 25, 2024, SOFA, an environmental group
4 headquartered in San Bernardino County, filed a complaint for injunctive and
5 declaratory relief in federal district court against USFS officials, challenging the
6 agency’s decision to allow BlueTriton to divert water and operate infrastructure
7 in Strawberry Canyon. Among other requests, SOFA sought to prohibit the
8 USFS “from approving or allowing any third party to divert water from
9 Strawberry Canyon by entry onto USFS land unless and until the USFS has
10 performed a new or supplemental environmental analysis.” Unlike the related
11 California State Water Resources Control Board proceeding, SOFA did not
12 provide a “carve out” for the Nation’s water uses in their complaint.

13 8. Because the USFS indicated SOFA’s lawsuit complicated its ability to
14 allow water to continue to flow from BlueTriton infrastructure to the Nation, we
15 spent several months in 2024 meeting with SOFA representatives trying to
16 understand the nature of their concerns, and exploring the extent to which the
17 Nation could address those concerns while still meeting the Nation’s water
18 needs from Strawberry Canyon for Arrowhead Springs. The hope was that if we
19 were able to resolve SOFA’s concerns, the lawsuit against the USFS would
20 become moot, removing the obstacle USFS officials had cited as a reason they
21 could not help the Nation.

22 9. For this purpose, we met with SOFA representatives in September,
23 October and November of 2024, and had a teleconference on January 10, 2025.
24 The first “meet and greet” with SOFA representatives and associated
25 stakeholders occurred on September 10, 2024, and involved SOFA’s president,
26 Dr. Hugh Bialecki, Steve Farrel (affiliated with the San Bernadino County Sierra
27 Club) and Steve Loe (a retired former USFS wildlife biologist and affiliated
28

1 with the Tri-County Conservation League). I and Josh Candelaria, a consultant
2 for the Nation, attended on behalf of the Nation.

3 10. We invited these same SOFA representatives to tour the Nation's
4 Arrowhead Springs to learn about the Nation's uses of its property and the need
5 for water from Strawberry Canyon. Dr. Bialecki, Mr. Farrell and Mr. Loe
6 participated in our Arrowhead Springs site tour on October 24, 2024, and that
7 tour (involving myself, Josh Candelaria, the Nation's legal counsel and other
8 Tribal staff) led to a hike within Strawberry Canyon, to be led by these SOFA
9 representatives and associates (Dr. Bialecki, Mr. Farrell and Mr. Loe). On
10 December 11, 2024, representatives from the Nation joined the hike, including a
11 Yuhaaviatam Tribal Council member, Josh Candelaria, and others from the
12 Nation's Environmental and Cultural Resources departments.

13 11. By virtue of this collaborative engagement, we landed on a resolution
14 that we thought would address SOFA's concerns while enabling the Nation to
15 continue to receive water through BlueTriton infrastructure (subject to the
16 USFS' approval). Specifically, SOFA representatives expressed support for the
17 Nation to receive water from Strawberry Canyon, so long as it was drawn from
18 bore holes lower down Strawberry Canyon, which SOFA indicated would create
19 less pressure on the Canyon's hydrology.

20 12. As a consequence, we thought this resolution would enable the USFS
21 to help us secure a solution, so the water could continue to flow through
22 BlueTriton infrastructure, despite the agency's permit denial (a denial that had
23 been extended to January 15, 2025, while we explored a solution). When we
24 approached the USFS with the proposed solution, however, we were told that we
25 should not be engaging with SOFA, and that we should stop communicating to
26 them. We were shocked by this agency position, which was contrary to their
27 previous suggestion that we work to address SOFA's concerns so the lawsuit
28 would no longer remain an obstacle for USFS.

1 13. On January 10, 2025, I and Josh Candelaria reached out to SOFA
2 President Dr. Bialecki and Mr. Loe via teleconference. We did so because we
3 wanted to ensure SOFA knew of the Nation's intent to intervene in the
4 BlueTriton litigation against the USFS. We also wanted to ensure SOFA was
5 aware that we intended to seek to intervene and seek to dismiss its lawsuit
6 against the USFS, but to know that the Nation still wanted to work with SOFA to
7 protect Strawberry Canyon, while also protecting its water needs at Arrowhead
8 Springs.

9
10 I declare under penalty of perjury of the laws of the United States that the
11 foregoing is true and correct. Executed on the 6th of March 2025 in San
12 Bernadino, California.

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15 ERIC USTATION
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